

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JOHN PETEREC-TOLINO,

Plaintiff,

-against-

PENNROSE, LLC; PENNROSE  
DEVELOPMENT, LLC; RISEBORO  
COMMUNITY PARTNERSHIP; HABITAT  
FOR HUMANITY – NEW YORK CITY,

Defendants.

24-CV-6911 (JGK)

ORDER OF SERVICE

JOHN G. KOELTL, United States District Judge:

Plaintiff, who is appearing *pro se*, brings this action under the Endangered Species Act, seeking to stay a proposed development at the Elizabeth Street Garden, located in Manhattan, New York. By order dated September 18, 2024, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees.

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.<sup>1</sup> *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

To allow Plaintiff to effect service on Defendants Pennrose, LLC, Pennrose Development, LLC, Riseboro Community Partnership, and Habitat for Humanity – New York

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<sup>1</sup>Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that any summonses be issued. The Court therefore extends the time to serve until 90 days after the date any summonses issue.

City, through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for Defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

If the complaint is not served within 90 days after the date summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

#### **CONCLUSION**

The Clerk of Court is instructed to issue a summons for each Defendant, complete the USM-285 form with the address for each Defendant, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is directed to mail an information package to Plaintiff.  
SO ORDERED.

Dated:

New York, New York

10/17/24



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JOHN G. KOELTL  
United States District Judge

**SERVICE ADDRESS FOR EACH DEFENDANT**

1. Pennrose, LLC  
1301 N. 31st Street  
Philadelphia, PA 19121
2. Pennrose Development, LLC  
1301 N. 31st Street  
Philadelphia, PA 19121
3. Riseboro Community Partnership  
555 Bushwick Avenue  
Brooklyn, NY 11206
4. Habitat for Humanity – New York  
111 John Street  
New York, NY 10038